

LIGHTNING ROD MUTUAL INSURANCE  
COMPANY,

Plaintiff,

V.

COOL BREEZE CONSTRUCTION, LLC,  
MITCH HOOD, JEROME D. HULETT, and  
BEVERLY HULETT,

Defendants.

Case No. 1:15-cv-00778-TWP-MJD

## ENTRY DENYING CLERK'S DEFAULT

This case was initiated on May 18, 2015. Defendants Jerome D. Hulett and Beverly Hulett (“the Hulett Defendants”) were served with a Summons and Complaint by certified U.S. Mail on May 20, 2015; however, return of service was not docketed until June 18, 2015 ([Filing No. 6](#) and [Filing No. 7](#)). On June 19, 2015, Plaintiff Lightning Rod Mutual Insurance Company, filed Verified Motions for Clerk’s Entry of Default ([Filing No. 8](#) and [Filing No. 9](#)) pursuant to Federal Rule of Civil Procedure 55(a), alleging that the Hulett Defendants had failed to appear, plead or otherwise defend as required by the Federal Rules of Civil Procedure. Thereafter, on July 20, 2015, the Hulett Defendants filed an Answer and Counterclaim ([Filing No. 10](#)) and counsel entered an appearance on their behalf ([Filing No. 11](#)).

Federal procedural law does not favor default judgments, noting that “courts must balance the need for efficient administration of justice with the preference for deciding cases on their merits and giving a party its day in court.” *McGrath v. Everest National Ins. Co.*, 668 F.Supp.2d 1085 (N.D.Ind. 2009), citing, *Flying J., Inc., v. Jeter*, 720 N.E.2d 1247, 1249 (Ind.App. 1999).

The Hulett Defendants have filed a Response to the Motion for Default ([Filing No. 13](#)).

Because counsel has appeared, an Answer and Counterclaim was filed prior to entry of a Clerk's default, and Plaintiff has proceeded with filing an Answer to the Counterclaim ([Filing No. 14](#)), a Clerk's default at this stage of the proceedings would be futile. Therefore, the Motions for Clerk's Entry of Default ([Filing No. 8](#) and [Filing No. 9](#)) are **DENIED**.

**SO ORDERED.**

Date: 8/18/2015



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TANYA WALTON PRATT, JUDGE  
United States District Court  
Southern District of Indiana

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